

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT
SAN JUAN, PR

1
2 SAMUEL MADURO CLASSEN,
3 et al.,

4 Plaintiffs,

5 v. CIVIL NO. 98-2335 (RLA)

6 SOUTHERN FLYER, INC.
7 et al.,

8 Defendants.

10 **ORDER DISMISsing CLAIMS**
11 **AGAINST CODEFENDANT POOLE AND UNKNOWN DEFENDANTS AND**
12 **SCHEDULING PRETRIAL CONFERENCE AND NON-JURY TRIAL**

13 **DISMISSAL OF CODEFENDANT POOLE AND UNKNOWN DEFENDANTS**

14 Plaintiffs' request to conduct discovery regarding the
15 viability of a claim against codefendant SAMUEL E. POOLE, JR., filed
16 on November 1, 1999 (docket No. 13) is **DENIED**. The complaint in
17 this action was filed a year ago and there is no evidence of
18 plaintiffs having taken any active participation in the prosecution
19 of their claims. On the contrary, plaintiffs' role in this case has
20 been one of absolute lethargy. The only motions filed on their
21 behalf have been in response to the Court's orders to show cause.

22 Accordingly, the claims asserted against codefendant SAMUEL E.
23 POOLE, JR. and the unknown defendants listed in the complaint are
24 hereby **DISMISSED**.

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NON-JURY TRIAL

Given the parties' conflicting versions regarding the terms of the attorney fee agreement this issue must be resolved at trial. Accordingly, a **NON-JURY TRIAL** in this action is hereby set for **March 9, 2000 at 9:30 a.m.** The parties shall conduct all necessary discovery in time to proceed to trial as scheduled.

Defendant is admonished that given the ample time provided to seek substitute counsel these proceedings shall continue with or without its legal representation.

PRE TRIAL CONFERENCE

A PRETRIAL CONFERENCE, to be held before the undersigned,¹ on
March 2, 2000 at 10:30 a.m.

A Proposed Joint Pretrial Order² shall be filed on or before February 15, 2000 and shall contain the following:

T. Nature of the Case

A statement of the nature of the case agreed upon by all parties which shall include issues of jurisdiction. In the event that the parties cannot agree upon a single description, separate versions shall be submitted.

¹ The parties shall contact the undersigned's chambers to verify where the conference will be held.

² A courtesy copy to be delivered directly to the chambers of the undersigned.

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1 **II. Theories of the Parties**

2 Each party shall present concisely its pertinent
3 legal theories including applicable citations to statutes and
4 caselaw. Counsel are directed to fully disclose all trial
5 issues since the Proposed Joint Pretrial Order will supersede
6 the pleadings in establishing the issues to be heard and
7 considered at trial.

8 **III. Admitted Facts**

9 The parties shall provide a comprehensive listing of
10 all admitted or stipulated facts.

12 **IV. Contested Facts**

13 The parties shall provide a listing of contested
14 facts.

15 **V. List of Exhibits**

16 This section shall contain a listing of all exhibits
17 which have been pre-marked/numbered. Each exhibit shall be
18 identified by a descriptive title as well as its identification
19 number. The parties shall indicate those exhibits, if any,
20 which are not objected to by opposing counsel.

21 **VI. Depositions**

22 The party wishing to use deposition testimony at
23 trial shall list the depositions. Additionally, designations
24 and objections shall be submitted in accordance with the

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1 undersigned's STANDING ORDER FOR CIVIL TRIALS issued on
2 **February 10, 1994.**

3 **VII. Witnesses and Interpreters**

4 Each party shall identify witnesses to be presented
5 at trial and include a brief, one paragraph, offer of proof.
6 Additionally, the parties shall specifically identify those
7 witnesses who will need the services of a court-certified
8 interpreter during trial.

9 **VIII. Expert Witnesses and Interpreters**

10 Each party shall list its expert witnesses and
11 include his/her curriculum vitae and an offer of proof. If an
12 expert report has been produced, the report shall be submitted
13 in conjunction with the offer of proof. Additionally, the
14 parties shall specifically identify those experts who will need
15 the services of a court-certified interpreter during trial.

16 **IX. Itemized Statement of Special Damages**

17 In anticipation that the issue of special damages may
18 arise, an itemized statement of special damages shall be
19 incorporated into the Proposed Joint Pretrial Order. The party
20 or parties not in agreement with the proposed statement shall
21 include its/their opposition in this section.

22 **X. Estimated Length of Trial**

23 Parties shall indicate the estimated length of trial.

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1 The Proposed Joint Pretrial Order may be modified by this Court
2 only upon a showing of good cause.

STANDING ORDER

The parties shall file a TRIAL BRIEF³ no later than **March 6, 2000** in accordance with the undersigned's STANDING ORDER FOR CIVIL TRIALS issued on **February 10, 1994**.

The parties shall make the necessary arrangements with the courtroom deputy clerk to have the evidence marked prior to trial.⁴

IT IS SO ORDERED.

San Juan, Puerto Rico, this 17 day of November, 1999.

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RAYMOND L. ACOSTA
United States District Judge

³ Courtesy copies of all these documents shall be delivered directly to the chambers of the undersigned.

⁴ The parties shall furnish the undersigned an additional copy of all documents intended to be presented as evidence at trial.

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SUMMARY OF DEADLINES AND SETTINGS

2/15/2000 Deadline for filing JOINT PRETRIAL ORDER

3/2/2000 PRETRIAL CONFERENCE at 10:30 a.m.

3/6/2000 Deadline for filing TRIAL BRIEF

***** Parties to mark evidence prior to trial

***** Parties to provide the court copy of all documents
intended to be presented as evidence at trial.

3/9/2000 NON-JURY TRIAL at 9:30 a.m.